

# EXHIBIT D

**Murphy**

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Page 1

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE MIDDLE DISTRICT OF ALABAMA  
3 NORTHERN DIVISION  
4

5 HAROLD KELLY MURPHY,  
6

7 Plaintiff,  
8

9 vs. CASE NUMBER  
10 2:06-cv-618-MEF  
11

12 SOUTHERN ENERGY HOMES,  
13 INC., et al.,  
14 Defendants.  
15 \* \* \* \* \*

16 DEPOSITION OF BOBBY PARKS, taken  
17 pursuant to stipulation and agreement  
18 before Barbara A. Howell, Certified  
19 Court Reporter and Commissioner for the  
20 State of Alabama at Large, ACCR No. 123,  
21 in the Law Offices of Beasley, Allen,  
22 Crow, Methvin, Portis & Miles, P.C., 272  
23 Commerce Street, Montgomery, Alabama, on  
Tuesday, November 27, 2007, commencing  
at approximately 11:00 a.m.

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1 A P P E A R A N C E S

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FOR THE PLAINTIFF:

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4 Mr. C. Lance Gould  
5 Beasley, Allen, Crow, Methvin,  
6 Portis & Miles, P.C.  
7 Attorneys at Law  
8 272 Commerce Street  
9 Montgomery, Alabama 36104

FOR THE DEFENDANTS:

8

9 Mr. W. Scott Simpson  
10 Mr. Gregory S. Ritchey  
11 RITCHHEY & SIMPSON, P.C.  
12 Attorneys at Law  
13 3288 Morgan Drive  
14 Suite 100  
15 Birmingham, Alabama 35216

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1 I N D E X

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EXAMINATION BY: PAGE

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MR. SIMPSON..... 5

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5 EXHIBITS PAGE

6 DEFENDANTS' EXHIBIT #1..... 5

7 DEFENDANTS' EXHIBIT #2..... 6

8 DEFENDANTS' EXHIBIT #3..... 6

9 DEFENDANTS' EXHIBIT #4..... 7

10 DEFENDANTS' EXHIBIT #5..... 8

11 DEFENDANTS' EXHIBIT #6..... 149

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19                   It is further stipulated and agreed  
20                by and between counsel representing the  
21                parties in this case that said  
22                deposition may be introduced at the  
23                trial of this case or used in any manner

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1 by either party hereto provided for by  
2 the Federal Rules of Civil Procedure.

3

5

6 BOBBY PARKS

7                   The witness, having first been duly  
8                   sworn or affirmed to speak the truth,  
9                   the whole truth, and nothing but the  
10                   truth, testified as follows:

11 THE REPORTER: Usual  
12 stipulations?

13 MR. SIMPSON: Sure.

14 EXAMINATION

15 BY MR. SIMPSON:

16 0 Almost good aft

17    A    Yes    sir

18 © Wu-Luo-mat

19 marking some exhibits and we'll just  
20 jump right into this. Let me mark  
21 Exhibit #1.

22 (Defendants' Exhibit #1 was  
23 marked for identification.)

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1           with you?

2   A. I'm not aware of -- they've not  
3       actively been to a home with me.

4   Q. Have you had conversations with them  
5       where discussions were had that they  
6       might start consulting with the Beasley  
7       team on these homes?

8   A. Yes, sir.

9   Q. And tell me about those conversations  
10      and what was said.

11   A. I was recently at a building science --  
12       continuing education building science  
13       fundamentals with Joseph Lstiburek and  
14       John Straube. I've actually known  
15       Joseph Lstiburek for several years,  
16       been to his home and to the Westford  
17       symposium. We've had conversations in  
18       the past. He does -- he doesn't do the  
19       expert work; however, Dr. Straube does.

20       And there was a conversation of --  
21       actually, Joseph Lstiburek has agreed  
22       to go -- or volunteered to go with me  
23       to the Manufactured Housing Consensus

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1       Committee, if granted an audience, to  
2       present the presentation and to support  
3       the change in the standard that I have  
4       submitted.

5   Q. You have submitted a standard to the  
6       consensus committee?

7   A. I have.

8   Q. Where is that? Do you know?

9   A. That's the removing the barriers, and  
10      the form is with it. It's already been  
11      given to Robert Solomon at NFPA.

12   Q. So Mr. Lstiburek has agreed to travel  
13      with you to any kind of consensus  
14      committee presentation?

15   A. He -- he asked to go. He wanted to go  
16      to that. He volunteered on his own.

17   Q. Is he playing any part or receiving any  
18      income in expert advice in the Beasley  
19      homes?

20   A. No, sir, he's not.

21   Q. The other fellow, Dr. Straube?

22   A. Yes, sir.

23   Q. What is his full name?

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1 A. Dr. John Straube. He is the partner  
2 with Joe in the Building Science  
3 Corporation.

4 Q. Is Neil Moyer a part of that group as  
5 well?

6 A. No, sir.

7 Q. And John Straube is -- what is his  
8 background and credentials?

9 A. He is a -- I don't know. You'll have  
10 to get that information from him. I'm  
11 not fully familiar.

12 Q. Well, is he actively participating in  
13 any level of expertise in these cases  
14 that you're aware of?

15 A. I'm not aware of the status of that.

16 Q. Were you privy to conversations where  
17 discussions were had about his possible  
18 involvement?

19 A. I talked to him about his possible  
20 involvement.

21 Q. What did you say to him?

22 A. In the conversation of the  
23 removing-the-barriers issue, and he

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1       offered to write a letter of review and  
2       opinion and also help to support that  
3       change being made in the standard. We  
4       spoke about he was very aware of the  
5       litigation that was going on down here.  
6       I simply mentioned that I would love to  
7       have him as -- as part of the team, and  
8       he agreed to speak to counsel. So --  
9       and I don't know where it's went from  
10      there.

11      Q. Anybody else that you've had  
12      conversations with -- other design  
13      professionals, engineers, architects --  
14      anyone else that you've been privy to  
15      conversations or know about  
16      conversations where people might be  
17      added as experts in these cases?

18      A. I can't really recall -- yeah. There  
19      was another gentleman a while back, but  
20      I don't know -- that was a Mr. Bud  
21      Offerman, but I don't know if anything  
22      ever -- I don't know, you know, what  
23      conversations or anything ever had.

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1           this many times.

2   A.  Yeah.

3   Q.  You think there's interplay between 303  
4       and 504.  I disagree.  But I think we  
5       agreed in the last case -- and I want  
6       to see if you've changed your mind --  
7       that even though 504 is not technically  
8       violated, you think 303 may be.

9   A.  I think the improper use of 504 -- I  
10      can't -- you can't say that 504 has  
11      been technically violated, no, you  
12      can't.  But --

13   Q.  Now, 504(b)(4), the new code section,  
14      has a geographic restriction; right?

15   A.  Yes, sir, it does.

16   Q.  And (b)(1) has no geographic  
17      restriction.

18   A.  Not at this time.

19   Q.  And you're lobbying for one.

20   A.  Yes, sir, I am.

21   Q.  And that's that whole discussion you  
22      were talking about where Joe Lstiburek  
23      is going to go with you to the

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1           consensus committee; right?

2   A.  If afforded the opportunity, yes, sir.

3   Q.  And the intent of your presentation to  
4       the consensus committee, if you're  
5       given that opportunity, is to create a  
6       geographical restriction to the  
7       application of (b) (1) walls.

8   A.  Simply -- simply as an exemption that  
9       (b) (1) should not be utilized in areas  
10      identified as (b) (4).  (B) (4) was  
11      offered as an alternative to (b) (1);  
12      therefore, it doesn't make sense that  
13      both options would be proper.

14   Q.  So you want the code to change so that  
15      you can't build a (b) (1) wall in the  
16      humid and fringe-zone climate.

17   A.  I believe that would be the proper  
18      thing to do, yes, sir.

19   Q.  And until that change happens, it's  
20      still okay to build one there, by code.

21   A.  By code.  If they're silly enough to  
22      keep doing it, then I guess so.

23   Q.  Now, page 1 of your report, this is

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## 1                   REPORTER'S CERTIFICATE

2

3                   STATE OF ALABAMA )

)

4                   ELMORE COUNTY      )

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6                   I do hereby certify that the above  
7                   and foregoing transcript was taken down  
8                   by me in stenotype, and the questions  
9                   and answers thereto were transcribed by  
10                  means of computer-aided transcription,  
11                  and that the foregoing represents a true  
12                  and correct transcript of the testimony  
13                  given by said witness.

14                  I further certify that I am neither  
15                  of counsel, nor of any relation to the  
16                  parties to the action, nor am I anywise  
17                  interested in the result of said cause.

18

19

20                  Barbara A. Howell, Certified  
21                  Court Reporter and Commissioner  
22                  for the State of Alabama at Large  
23                  ACCR NO. 123 - Expires 9/30/08  
24                  MY COMMISSION EXPIRES: 12/27/08